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OFFICE OF PETITIONS

In re Application of :
Singh, et al. :
Application No. 10/806,617 : DECISION GRANTING
Filed: March 23, 2004 : PETITION
Attorney Docket No. ALT/P023 (A 1258) :
For: METHOD AND APPARATUS FOR :
PERFORMING LOGIC REPLICATION IN :
FIELD PROGRAMMABLE GATE :
ARRAYS :

This is a decision on the reconsideration petition filed September 7, 2004 (certificate of mailing date September 1, 2004) requesting, in effect that the Notice mailed June 10, 2004 be withdrawn and that allegedly omitted page 5 of the specification and the application papers filed on March 23, 2004 be accorded a filing date of March 23, 2004. The petition will be treated under 37 CFR 1.53(e).

The application was filed on March 23, 2004. On June 10, 2004, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" informing petitioners that page 5 of the specification appeared to have been omitted.

Petitioners request that the whole application, including page 5 of the specification, be accorded a filing date of March 23, 2004 on the basis that 32 pages of utility application were received in the Patent and Trademark Office (PTO) on March 23, 2004, as is stated on the return receipt postcard, which was date stamped by the PTO and returned to applicants.

Applicant's first petition under 37 CFR 1.53(e), filed June 24, 2004 (certificate of mailing date June 21, 2004), was dismissed on August 13, 2004 because the postcard receipt was deemed not properly itemized.

In response to the petition decision, petitioner timely filed the present reconsideration petition.

Petitioners reiterate their request that the application be accorded a filing date of March 23, 2004 with page 5 as part of the original application papers based on their contention that page 5 was received in the Patent and Trademark Office (PTO) on March 23, 2004.

A properly itemized return postcard constitutes *prima facie* evidence that the items were filed on the date stamped thereon. However, a postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. MPEP 503. For example, merely listing on the postcard "patent application" will not serve as a proper receipt for each of the required components of an application or missing portions of an application if one of the components or portion of a component is found to be missing by the PTO. Each separate component should be specifically and properly itemized on the postcard. MPEP 503.

The Office maintains that the itemized postcard in this case was not properly itemized. It is noted that the postcard receipt lists "Application Utility - Rule 1.53 (32 pgs. w/cover)," while the original transmittal letter properly identifies "specification [Total Pages 32]." The word "application" is viewed differently from the word "specification."

Even though the postcard receipt was not properly itemized with respect to the specification, petitioner can establish that 32 pages of application were received. Fortunately, petitioner numbered the specification, claims and abstract in sequential order and itemized the drawings separately. The Office received pages 1-4 and 6-32 of the specification. Since petitioner has established that 32 pages were received in the Office on March 23, 2004, the Office will accept page 5 as filed on March 23, 2004.

In the future, petitioner is strongly encouraged to itemize any new application postcard receipts with the word "specification" rather than the word "application."

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of March 23, 2004, using the copy of page 5 supplied on June 24, 2004 (certificate of mailing date June 21, 2004) .

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.



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